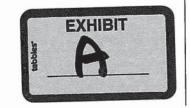
#### UNITED STATES DISTRICT COURT 1 CENTRAL DISTRICT OF CALIFORNIA 2 BAY CITY SURGERY CENTER, INC.; § Case No. 2:15-cv-6209 MEDICAL PLAZA OF SAN PEDRO, INC.; PACU, INC.; MINIMALLY INVASIVE SURGICAL TEAM OF GLENDALE, INC.; S.H.A.R.P. TREATMENT OF SOUTH BAY, INC. 3 4 5 AND SOUTHBAY SPINE GROUP, INC. **DECLARATION OF ANDREW MORRIS** 6 Plaintiffs, VS. Judge: Hon. Michael W. Fitzgerald 7 INTERNATIONAL LONGSHORE & WAREHOUSE UNION-PACIFIC 8 MARITIME ASSOCIATION WELFARE PLAN BOARD OF TRUSTEES; INTERNATIONAL LONGSHORE & 9 WAREHOUSE UNION-PACIFIC 10 MARITIME ASSOCIATION WELFARE PLAN 11 Defendants. 12 13 INTERNATIONAL LONGSHORE & 14 WAREHOUSE UNION-PACIFIC MARITIME ASSOCIATION 15 WELFARE PLAN BOARD OF TRUSTEES; INTERNATIONAL 16 LONGSHORE & WAREHOUSE UNION-PACIFIC MARITIME 17 ASSOCIATION WELFARE PLAN 18 Counterclaimants. 19 VS. BAY CITY SURGERY CENTER, INC., MEDICAL PLAZA OF SAN PEDRO, 20 INC. PACU. INC., MINIMALLY 21 INVASIVE SURGICAL TEAM OF GLENDALE, INC., SOUTHBAY SPINE GROUP, INC., COSTAL VIEW GASTROENTEROLOGY, INC., AND 22 23 COASTAL VIEW GASTROENTEROLOGY OF SOUTH 24 BAY, INC., 25 Counter-Defendants. 26



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My name is Andrew Morris. I am of sound mind, over the age of twenty-one, and competent in all respects to make this declaration.

I am an owner of Bay City Surgery, Inc. ("Bay City"), Medical Plaza of San Pedro, Inc. ("MPSP") –which did business as South Bay Pain Docs and San Pedro Family & Urgent Care, and Sharp Treatment of South Bay, Inc. ("Sharp Treatment"), (collectively hereinafter referred to as "Providers"). As one of the owners of Providers I am familiar with their office administration, patient check-in, billing and collection procedures in place between 2012 and 2014. It is my understanding that South Bay Spine Group (SBSG) used Badger Billing for their billing and collections and followed the same procedures as Providers.

Bay City is a surgery center where pain management and surgical procedures are performed, among other medical services. MPSP, Sharp Treatment and SBSG are or were medical practices where primary care, pain management, and neurosurgery services were provided to patients among other health care services.

Between 2012 and 2014 Providers and SBSG performed healthcare services for participants and beneficiaries of the ILWU-PMA Welfare Plan (the "Plan"). When Plan participants and beneficiaries came to Providers and SBSG for healthcare services they presented medical cards in the name of "ILWU-PMA Coastwise Indemnity Plan" with an address for submittal of claims and a toll free telephone number for questions about eligibility and benefits.

For all of the claims for which Providers are seeking affirmative relief in this case, Providers' practice was to contact the Plan for benefit eligibility and member coverage verification prior to performing the requisite surgery or other healthcare service. The following sets forth the general substance of the communications between Providers and the Plan that occurred in connection with verification of coverage and benefits (and it is my understanding the same is true for SBSG):

- (a) Providers would call the Plan's claim office in San Francisco on the Plan's toll free line set forth on the member identification card (presently, 800-955-7376);
- (b) The automated toll free line would identify the answering party as the "Coastwise Claims office at Zenith American Solutions," thereby confirming to Providers that the communication was with the authorized administrator for the Plan;
- (c) The automated telephone call-in line would present four "options" to Providers as the callers. Option 4 prompted the caller to "press 4" to speak to a "Representative" about questions regarding "eligibility or benefits;"
- (d) Providers' callers would "press 4" and after a typically lengthy delay (often thirty minutes or longer) a live Representative of the Plan administrator would come on the line;
- (e) Providers were "out of network" providers to the Plan, and accordingly they called in advance of performing services to ensure that Providers would be paid for their services by the Plan;
- (f) Providers' callers would usually speak to one of a small group of Representatives of the Plan administrator;
- (g) Providers' callers would advise the Plan Representative of the identity of the Plan member or dependent; the CPT code for the surgical procedure to be performed (the CPT code is the medical procedure descriptive identifier; CPT means "Current Procedural Terminology"); and that the purpose of the call was to verify the existence of coverage for the patient and the eligibility of Providers for payment of benefits as the service provider;
- (h) The Representative would review the Plan records and advise Providers about the percentage of billing covered under the Plan (typically 80%);

the amount of patient deductible; and whether benefits would be payable to Providers based on the CPT code provided.

In most cases, the representative verifying patient Plan eligibility on behalf of Providers would fill out a patient insurance verification form while speaking with the Plan's representative. The patient insurance verification forms generally stated the patient's name, insurance card number, date of birth, Plan coverage and patient responsibility amounts for procedures and services performed by both in-network and out-of-network providers, the name of the Bay City representative who called the Plan, the date of the call, the name of the Plan representative with whom the Bay City representative spoke, and whether pre-authorization was required. The Plan Representative would tell Providers whether a specific pre-authorization for the procedure was required. It's my understanding the same is true for SBSG.

It was the practice of Providers to seek pre-authorization for procedures before they were performed. When doing so, Providers were referred to Innovative Care Management ("ICM"), the Plan's agent for evaluation and pre-authorization of medical procedures. In those instances, Providers' callers were transferred to ICM by the Plan Representative on the call-in line. Once the procedure was approved as medically necessary by ICM and payable by the Plan, ICM mailed an authorization letter to Providers with CPT codes and dates to do the procedure. The ICM letter states that it is a directive to the Plan administrator to pay for the approved services. Despite this "directive" from its retained medical necessity expert, the Plan failed and refused to pay Providers for the pre-authorized services. It is my understanding the same is true for SBSG.

In numerous instances where Providers verified a patient's eligibility for Plan benefits and obtained pre-authorization from ICM, the Plan still denied the claim, claiming that the services were not covered by the Plan. On the explanations of benefits Defendants sent to Plaintiffs explaining the reason(s) for denial of Plaintiffs' claims, Defendants often used denial codes like "MEDNC1," meaning "Denied – the

plan does not cover services that are not medically necessary"; "MEDNEC," meaning "This claim or a portion of the claim has been denied because the plan does not cover services that are not medically necessary"; "TC3DN2," meaning "Denied – documents did not support the service billed"; or "PHYSOS," meaning "additional information required to verify coverage." It is my understanding the same is true for SBSG.

By way of example, in patient N.D.'s case, Bay City called to verify that the patient was eligible for Plan benefits, according to its usual protocol set forth above. Bay City then contacted ICM to request pre-authorization to perform a spine injection on the patient. As part of its pre-authorization request, Bay City submitted the office notes of N.D.'s board-certified pain management physician, Adam Weitzman, M.D., recommending the procedure, a completed ICM-form questionnaire summarizing the medical indications for the procedure, and other relevant information. After considering the information that Bay City submitted, on October 14, 2013, ICM issued its standard pre-authorization letter approving "Sacroiliac joint injection – Bilateral x 1 injection each side," CPT code 27096. A true and correct copy of the letter is attached hereto as Exhibit A-1. Dr. Weitzman performed the pre-authorized spine injection procedure at Bay City, and Bay City billed the Plan for CPT code 27096 on October 17, 2013. A true and correct copy of the claim form submitted by Bay City is attached hereto as Exhibit A-2.

On December 13, 2013, Defendants issued an explanation of benefits with denial code "TC3REV," meaning "under review, additional information requested from provider." A true and correct copy of the explanation of benefits Bay City received is attached hereto as Exhibit A-3. Bay City provided Defendants with all of the "additional information" they requested, including the operative report from the procedure. On April 21, 2014 (more than 6 months after the Plan was billed for the procedure), Defendants issued a second explanation of benefits, this time using denial code "TC3DN2," meaning "Denied – documents did not support the service billed."

A true and correct copy of the explanation of benefits Bay City received is attached hereto as Exhibit A-4. In response, Bay City provided more information to Defendants in support of the services billed. On May 7, 2014, Defendants issued a third explanation of benefits, using the same "TC3DN2" denial code and also denial code "MEDNC1," meaning "Denied – the plan does not cover services that are not medically necessary." A true and correct copy of the explanation of benefits Bay City received is attached hereto as Exhibit A-5.

Providers received similar treatment from Defendants in numerous other cases. It is my understanding the same is true for SBSG.

I provided to the lawyers representing Providers all of the ICM letters and supporting records that Providers have in their custody, possession, or control for the patients for whom they are making an affirmative claim for ERISA plan benefits or other relief in the Lawsuit. It is my understanding that Providers' lawyers have produced those documents to the lawyers representing the Defendants in the Lawsuit, although I understand the discovery and document production process is still underway. If any of the referenced documents have not been produced thus far, it is my understanding they will be produced and made available in the near future.

Attached hereto as Exhibit A-6 is summary spreadsheet which was prepared at my direction showing the claims where Providers obtained pre-authorization letters from ICM. The spreadsheet was created by reviewing each patient's file, locating the ICM letter in the file, if any, reviewing the supporting medical records and notating the existence of an ICM letter in the "Pre-Authorization" column on the spreadsheet next to the initials of the corresponding patient. To the best of my knowledge and belief, the spreadsheet accurately reflects the patients whose claims are at issue in the Lawsuit for whom Providers obtained an ICM letter pre-authorizing the healthcare services as medically necessary and payable by the Plan. The underlying documents are voluminous (thousands of pages) and contain sensitive HIPAA protected PHI.

Accordingly, they cannot conveniently be attached to this declaration and cannot conveniently be electronically filed with the Court.

I am the duly authorized custodian of records for Providers, including of the aforementioned ICM letters. In such capacity, I have the authority to certify the documents summarized by the attached spreadsheet and examples attached to this declaration. All such documents are true and correct copies of the originals maintained by Providers in a file for the patient mentioned in each document. The documents were kept in the course of the regularly conducted business activities of Providers, and, as described above, were created and maintained as a regular practice and custom. The documents were maintained by employees of Providers in the ordinary course of business at or near the time of the act or event reported therein, by a person with knowledge of and a business duty to maintain the letters.

I declare under penalty of perjury under the laws of the State of California and of the United States of America that the foregoing is true and correct.

Signed this // day of April, 2018.

Andrew Morris

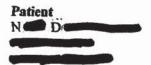


PO Box 22386, Portland, Oregon 97269 Internet Site: http://www.innovativecare.com Telephone: (503) 654-9447 Fax: (503) 654-8570 Toll Free: 1-800-862-3338 Healthcare savings and salisfaction through innovation and respect.

October 14, 2013

Facility / Medical Professional Bay City Surgery Center 2557 Pacific Coast Hwy, Ste A Torrance, CA 90505

Case Number:



Provider
Adam Weitzman, MD
529 W 7th Street
San Pedro, CA 90731

**DIAGNOSIS: Sacroiliitis** 

Type of Service Service Code Begin Date End Date
Sacroiliac joint injection - Bilateral x I injection each side 27096 10/24/2013 10/24/2013



The ILWU-PMA Welfare Plan has contracted with Innovative Care Management to provide Voluntary Utilization Review Services. Innovative Care Management medical professionals provide an objective review of proposed treatments prior to hospitalization, surgery, outpatient procedures, and diagnostic tests.

An Innovative Care Management registered nurse has reviewed and authorized your requested medical services under the terms of the Coastwise Indemnity Plan subject to the provisions contained in the following paragraph. Please keep this letter as your documentation for the services and authorizations given regarding your case.

This authorization serves as a directive to the Coastwise Claims Office to pay for the above approved services, but does not determine the amount paid on your claim. Benefits are subject to your eligibility at the time you receive the medical services and applicable out-of-network charges. If you need an estimate of the amount that may be paid on your claim, please contact the Coastwise Claims Office at 1-800-955-7376 between the hours of 8:45 AM - 5:00 PM PST.

A copy of this authorization, which is based on information obtained from your healthcare providers, will be sent to your physician, and facility or medical professional, and to the Coastwise Claims Office.

If you have any questions concerning this letter, please call 1-866-275-1014.

Sincerely,

Innovative Care Management

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ILWU-PMA COASTWISE CLAIMS OFFICE Group No. 6475 PO Box 429101 San Francisco, CA 94142

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For Customer Service: (800)955-7376 8:30 a.m.-5:00 p.m. PST

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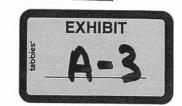
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0/24/13-10/24/13	0490 64483 SURG C	5,042.00	0.00	5,042.00	0.00	0.00	0.00	0.00	0.00		ACCSUB MEDNCI
0/24/13-10/24/13	0490 64484 SURG C	3,328.00	0.00	3,328.00	0.00	0.00	0.00	0.00	0.00		ACCSUB





ILWU-PMA COASTWISE CLAIMS OFFICE PO Box 429101 San Francisco, CA 94142

### Electronic Service Requested

201404221122

TAM

For Customer Service: (800)955-7376 8:30 a.m.-5:00 p.m. PST

RECEIVED DATE: 03/13/2014

PROCESSED DATE: 04/21/2014

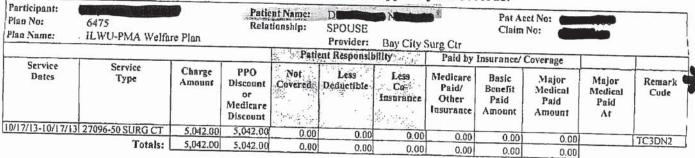
ENV 3201

3-DIGIT 907

E04.0 TA PESS.O 105E

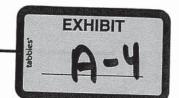
վուրդութվույիլի իրի իրկանիկութի իրականիկութի Bay City Surg Ctr 2557 PACIFIC COAST HUY STE A TORRANCE, CA 70505-7035

Explanation of Benefits - This is not a bill - Please retain a copy for your records.



Participant: Plan No: Plan Name:	6475 ILWU-PMA Welfer	re Plan		nt Name: tionship:	PARTICIF Provider:	ANT Bay City	Sure Cir	Pat Ac Claim	No:		
			- 17 - 12 - 13 - 13	Pati	ent Responsil	ollity		Insurance/ (	Coverage		Т
Service Dates	Service Type		PPO Discount or Medicare Discount	Not Covered	Less Deductible	Less Co- Insurance	Medicare Paid/	Basic Benefit Pald Amount	Major Medical Paid Amount	Major Medical Paid At	Remark Code
2/04/13-12/04/13	0490 43239 SURG C	8,732.00	8,732,00	0.00	0.00	0.00	0.00	0.00	0.00		TOODS
	Totals:	8,732.00	8,732.00	0.00	0.00	0.00		0.00	0.00		TC3DN2

Participant: Plan No: Plan Name:	6475 ILWU-PMA Welfar	re Plan		nt Name: tionship:	PARTICIP Provider:	Bay City	Surg Ctr	Pat Ac Claim	no:	5	
01				Pati	nt Responsib	illty	Paid by	Insurance/	Coverage		
Service Dates	Service Type	Charge Amount	PPO Discount or Medicare Discount	Not Goyered	Less Deductible	Less Co- Insurance	Medicare Paid/ Other Insurance	Basic Benefit Paid Amount	Major Medical Paid Amount	Major Medical Paid At	Remark Code
	0490 64635 SURG C	5,042.00	5,042.00	0.00	0.00	0.00	0.00	0.00	0.00	-	TC3DN2 MEDNC1
	0490 64636 SURG C	3,328.00	3,328.00	0.00	0.00	0.00	0.00	0.00	0.00		TC3DN2 MEDNCI
0/24/13-10/24/13	0490 64636 SURG C	3,328.00	3,328.00	0.00	0.00	0.00	0.00	0.00	0.00		TC3DN2 MEDNC1





ILWU-PMA COASTWISE CLAIMS OFFICE PO Box 429101 San Francisco, CA 94142

#### Electronic Service Requested

3-DIGIT 907

4826 0.6871 AT 0.403 կայինինորումիիիրիրիրիկիրունանի

Bay City Surg Ctr 2587 PACIFIC COAST HWY STE A 2507-2020 CA 9050-7035

201 autom 1330

For Customer Service: (800)955-7376 8:30 a.m.-5:00 p.m. PST

RECEIVED DATE:

05/07/2014

PROCESSED DATE: 05/07/2014

### Explanation of Benefits - This is not a bill - Please retain a copy for your records.

								~			
Participant: Plan No: Plan Name:	6475 ILWU-PMA Welfar	re Plan .		nt Name:   lionship:	PARTICIP Provider:	ANT Bay City	Surg Cir	Pat Ac Claim		=	
				Patie	ent Responsib	ility	Paid by	Insurance/	Coverage		T
Service Dates	Service Type	Charge Amount	PPO Discount or Medicare Discount	Not Covered	Less Deductible	Less Co- losorance	Medicare Paid/ Other Insurance	Basic Benefit Paid Amount	Major Medical Paid Amount	Major Medical Paid At	Remark Code
6/25/13-06/25/13	0490 43239 SURG C	9,397.25	9,397.25	0.00	0.00	0.00	0.00	0.00	0.00		TC3DN2
	Totals:	9,397.25	9,397.25	0.00	0.00			0.00	0.00		TICSDNZ

		Tota	al Paid by	Coastwise	Plau: 0.00		Tot	al Patient	Responsibili	ty: .00	
Participant: Plan No: Plan Name:	6475 ILWU-PMA Welfar	re Plan		nt Name: ionship:	PARTICIP Provider:	ANT Bay City S	Surg Ctr	Pat Ac Claim			
	γ			Patie	ent Responsib			Insurance/ (	Coverage		
Service Dates	Service Type	Charge Amount	PPO Discount or Medicare Discount	Not Covered	Less Deductible	Less Co- Insurance	Medicare Paid/ Other Insurance	Busic Benefit Paid Amount	Major Medical Paid Amount	Major Medical Paid At	Remark Code
8/13/13-08/13/13	0490 43250 SURG C	9,397.25	9,397.25	0.00	0.00	0.00	0.00	0.00	0.00		TC3DN2
	Totals:	9,397.25	9,397.25	0.00	0.00	0.00		0.00	0.00		TIC3DN2

		Tota	al Paid by	Coastwise	Plan: 0.00	Total Patient Responsibility: .00					
Participant: Plan No: Plan Name:	6475 ILWU-PMA Welfa	re Plan	Patient Name: Relationship:		SPOUSE Provider: Bay City		Pat Acet No: Claim No:				
				Patient Responsibility Paid by Insurance				Insurance/ (	Coverage	T	
Service Dates	Service Type	Charge Amount	PPO Discount or Medicare Discount	Not Covered	Less Deductible	Less Co- Insurance	Medicare Paid/ Other Insurance	Basic Benefit Paid Amount	Major Medical Paid Amount	Major Medical Paid At	Remark Code
8/21/13-08/21/13	0490 43239 SURG C	9,397.25	9,397.25	0.00	0.00	0.00	0.00	0.00	0.00		TOSIONIO
	Totals:	9,397.25	9,397.25	0.00	0.00	0.00		0.00	0.00		TC3DN2

Total Paid by Constwise Plan: 0.00	Total Patient Responsibility: .00



07/23/13-07/23/13 45382-59 SURGICT

07/23/13-07/23/13 0490 45385 SURG C 07/23/13-07/23/13 45381-59 SURG CT

07/23/13-07/23/13 45380-59 SURG CT

10,594.99

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10,594.99

42,379.96

Totals:

10,594.99

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10,594.99

10,594.99

42,379.96

#### continued from previous page Participant: Patient Name: Pat Acet No: Plan No: 6475 Relatiouship: SPOUSE Claim No: Plan Name: ILWU-PMA Welfare Plan Provider: Bay City Surg Ctr Patient Responsibility Paid by Insurance/ Coverage Service Service Charge PPO Not Less Medicare Less Basic Dutes Major Type Major Remark Amount Dischunt Covered Deductible Co-Paid/ Medical Benefit Medical Cade or Insurance Other Pald Paid Paid Medicare Insurance Amount Amount At Discount

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		Total	l Paid by	Constwise	Plan: 0.00		Total Patient Responsibility: ,00				
Participant: Pian No: Pian Name:	7 Ame			at Name: De N lanship: SPOUSE Pravider: Bay City S			Pat Acct No: Claim No:				
				Patie	ent Responsib	ifity	Pald by	insurance/ (	Coverage		1
Service Dates	Service Type	Charge Amount	PPO Discount or Medicare Discount	Nut Covered	Less Deductible	Less Co- Insurance	Medicare Paid/ Other Insurance	Basic Benefit Paid Amount	Major Medical Paid Amount	Major Medical Paid At	Remar Code
10/17/13-10/17/13	27096-50 SURU CT	5,042.00	5,042.00	0.00	0,00	0.00	0.00	0,00	0.00		TC3DN2 MEDNCI
	Totals:	5,042.00	5,042.00	0.00	0.00	0.00	0.00	0.00	0.00		

	·	Tota	al Paid by	Coastwise	Plan: 0.00		Total Patient Responsibility: .00					
Participant: Plan No: Plan Name:	6475 ILWU-PMA Welfa	nt Name: clouship: PARTICIPANT Provider: Bay City			Pal Acut No:							
				Patie	ent Responsib			Insurance/ (	Coverage		1	
Service Untes	Service Type	Charge Amount	PP() Discount or Medicare Discount	Not Covered	Less Deductible	Less Co- Insurance	Medicare Paid/ Other Insurance	Basic Benefit Paid Amount	Major Medical Paid Amount	Major Medical Paid At	Remark Code	
2/18/13-12/18/13	0490 43239 SURG C	8,732.00	8,732.00	0.00	0.00	0.00	0.00	0.00	0.00		TC3DNI	
	Totals:	8,732.00	8,732.00	0.00	0.00	0.00	0.00	0.00	0.00		TICIDNI	

		Tota	l Paid by	Coastwise	Plan: 0.00		Total Patient Responsibility: .00				
Participant: Plan No: Plan Name:				nt Name: lonship: PARTICIPANT Provider: Bay City		Pat Acct No: Claim No:					
		Patient Responsibility			Paid by	lasurance/ (		T			
Service Dates	Service Type	Charge Amount	PPO Discount or Medicare Discount	· Not Covered	Less Deductible	Less · Co- Insurance	Medicare Puid/ Other Insurance	Rasic Benefit Paid Amount	Major Medical Paid Amount	Major Medical Paid At	Remari Code
	0490 64493 SURG C 0490 64494 SURG C	11,815.00 5,907.00		0.00	0.00 0.00	0.000000	0,00 0.00	0.00	0.00		TC3DN2 TC3DN2

